

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JEFFREY ORENSTEIN,
Plaintiff

-vs-

SPRUCE SERVICES, INC.,
Defendant

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A-23-CV-00391-JRN

ORDER

Before the Court in the above-entitled cause of action is the Report and Recommendation of United States Magistrate Judge Susan Hightower regarding Defendant's Motion to Dismiss or Transfer to the Southern District of Florida, filed July 7, 2023 (Dkt.11), and the associated response and reply briefs. This Court referred this cause to the United States Magistrate Judge for findings and recommendations. The Magistrate Judge filed her Report and Recommendation on December 18, 2023. *See* Dkt. 17. After a careful and thorough review of the case and the applicable law, the Magistrate Judge recommends that this Court **DENY** Defendant's Motion to Dismiss or Transfer to the Southern District of Florida (Dkt. 11).

As noted, the Magistrate Judge issued her Report and Recommendation on December 18, 2023, and on the same date, both parties were served with copies of the Report and Recommendation by electronic means. The Magistrate Judge explicitly warned both parties in writing that a party's failure to file written objections within fourteen (14) days after being served with a copy of the Report and Recommendation, bars that party, except on grounds of plain error, from attacking on appeal the unobjection-to proposed factual findings and legal conclusions accepted by the district court. Although Rule 72(b) of the Federal Rules of Civil

Procedure requires parties to file objections within 14 days, Rule 6 extends this period by 3 days if service is *via* electronic means. *See Fed. R. Civ. P. 6(d); see also American Realty Trust, Inc. v. Matisse Partners*, No. Civ. A. 3:00-CV-1801, 2003 WL 22083516, at *1 n. 1 (N.D. Tex. 2003) (adding 3 days to the time period provided under Rule 72(b)). Accordingly, pursuant to 28 U.S.C. § 636(b), Rule 72(b), and Rule 6(d), the parties' objections were due on or before January 6, 2024. However, as of the date of this Order's issuance, the Court has yet to receive objections to the Magistrate's Report and Recommendation. Consequently, the parties are not entitled to a *de novo* review by this Court. Having found no plain error, the Court will accept the Report and Recommendation of the Magistrate Judge for the reasons stated therein.

IT IS THEREFORE ORDERED that the Court hereby **ADOPTS** the Report and Recommendation that the United States Magistrate Judge has filed in this cause.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss or Transfer to the Southern District of Florida (Dkt.11), is **DENIED**.

SIGNED this 8th day of January, 2024.



JAMES R. NOWLIN
SENIOR U.S. DISTRICT JUDGE